

GALLATIN RANGE CONSOLIDATION AND PROTECTION  
ACT OF 1993

AUGUST 3 (legislative day, JUNE 30), 1993.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural  
Resources, submitted the following

REPORT

[To accompany H.R. 873]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 873), to provide for the consolidation and protection of the Gallatin Range, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. SHORT TITLE

This Act may be referred to as the "Gallatin Range Consolidation and Protection Act of 1993".

SEC. 2. FINDINGS

Congress finds that—

(1) the lands north of Yellowstone National Park possess outstanding natural characteristics and wildlife habitats that give the lands high value as lands added to the National Forest system; and

(2) it is in the interest of the United States for the Secretary, acting through the Forest Service, to enter into an option agreement with Big Sky Lumber Company and Louisiana Pacific Corporation to fulfill the purposes of this Act.

SEC. 3. BIG SKY LUMBER LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (referred to in this Act as the "Secretary", unless the context otherwise requires) shall acquire by exchange certain lands and interests in lands of the Big Sky Lumber Company (referred to in this Act as the "Company"), in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other lands in the Gallatin National Forest in accordance with this section.

(b) DESCRIPTION OF LANDS.—

(1) **OFFER AND ACCEPTANCE OF LAND.**—If the Company offers to the United States acceptable fee title, including mineral interests, to approximately 37,752 acres of land owned by the Company and available for exchange, as depicted on the map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary shall accept a warranty deed to the land.

(2) **EXCHANGE.**—In exchange for the lands described in paragraph (1) and subject to valid existing rights, the Secretary of Interior shall convey, by patent, the fee title to approximately 16, 278 acres of National Forest System lands available for exchange as depicted on the maps referred to in paragraph (1), subject to—

(A) the reservation of ditches and canals required by the first section of the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 371, chapter 837, 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 40389, 53670, 40215, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations, and exceptions as may be agreed upon by the Secretary and the Company.

(3) **TERMINATION OF LEASES.**—

(A) **VESTING OF RIGHTS AND INTERESTS.**—Upon termination or relinquishment of the leases referred to in paragraph (2)(B), all the rights and interests in such leases reserved under paragraph (2)(B) shall immediately vest in the Company and its successors and assigns.

(B) **NOTICE.**—The Secretary shall provide notice of the termination or relinquishment of the leases referred to in paragraph (2)(B) by a document suitable for recording in the county in which the leased lands are located.

(c) **EASEMENT.**—

(1) **IN GENERAL.**—Reciprocal easements in accordance with this subsection shall be conveyed at the time of the exchange authorized by this section.

(2) **CONVEYANCE BY THE SECRETARY.**—The Secretary shall, in consideration of the easements conveyed by the Company under paragraph (3), and under the authority of Section 2 of Public Law 88-257 (commonly known as the "National Forest Roads and Trails Act") (16 U.S.C. 533), or the Federal Lands Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), execute and deliver to the Company such easements or other rights-of-way over federally owned lands as may be agreed to by the Secretary and the Company.

(3) **CONVEYANCE BY THE COMPANY.**—The Company shall, in consideration of the easements conveyed by the Secretary under paragraph (2), execute and deliver to the United States such easements or other rights-of-way across Company-owned lands included in this exchange as may be agreed to by the Secretary and the Company.

(d) **NORTH BRIDGER RANGE.**—

(1) **COVENANTS AND OTHER RESTRICTIONS.**—As a condition of the exchange, with respect to such lands depicted on the map entitled "North Bridger Range", dated May 1993, the Company shall agree that—

(A) the holders, or their successors or assigns, of grazing leases on such lands on the date of enactment of this Act shall be permitted to continue to use such lands for grazing under terms acceptable to the Company and the permittees for so long as the Company owns such lands and for 2 years after the Company has sold or disposed of such lands; and

(B) the timber harvest practices used on such lands shall be conducted in accordance with Montana Forestry Best Management Practices, the Montana Streamside Zone Management Law (Mont. Code Ann. sec. 77-5-301 et seq.), and all other applicable laws of the State of Montana.

(2) **FUTURE ACQUISITION.**—The Secretary shall consider the desirability of possible acquisition, through exchange under existing law, of any of the lands described in paragraph (1), and shall, not later than 1 year after the date of enactment of this Act, report to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives concerning the desirability of an exchange.

(e) **TIMING OF TRANSACTION.**—

(1) **DETERMINATION.**—The Secretary shall review the title for the non-Federal lands described in subsection (b), and the appraisal and titles for the non-Federal lands described in section 4 and 5, and, within 50 days after receipt of all applicable appraisal and title documents from the Company, determine whether—

(A) the applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary;

(D) the appraisals comply with applicable Forest Service standards; and

(E) except as provided in section (8)(b), the title includes both the surface and subsurface estates without reservation or exception (except by the United States or the State of Montana, by patent), including

(i) minerals or mineral rights;

(ii) timber or timber rights; and

(iii) any other interest in the property.

(2) CONVEYANCE OF TITLE.—In the event the appraisal and/or quality of title do not meet federal standards or are otherwise determined unacceptable to the Secretary, the Secretary shall advise the Company regarding corrective actions necessary to make an affirmative determination under paragraph (1). The Secretary, acting through the Chief of the Forest Service, shall effect the conveyance of lands described in subsection (b)(2) not later than 50 days after the Secretary has made an affirmative determination under paragraph (1).

(f) COMPLIANCE WITH OPTION.—Notwithstanding section (3)(e)(2), the Secretary shall not consummate the conveyance of lands described in subsection (b)(2) until the Secretary has determined that title to the lands described in Sec. 4 and 5 have been escrowed as required by the document entitled "Option Agreement for the Exchange and/or Purchase of Real Property Pursuant to the Gallatin Range Consolidation and Protection Act of 1993" (referred to in this act as "the Option"), executed by the Company, as seller.

(g) REFERENCES.—References in this Act to the Company shall include references to the successors and assigns of the Company.

#### SEC. 4. LAND CONSOLIDATION—PORCUPINE AREA.

(a) ACQUISITION OF PORCUPINE PROPERTY.—The Secretary is authorized and directed to acquire, by purchase or exchange, lands and interests in lands as depicted on the map entitled "Porcupine Area", dated September, 1992, in accordance with the terms and conditions of the Option for the fair market value of such lands and interests, determined at the time of acquisition, in accordance with the appraisal standards specified in the Option.

(b) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, on the status of the acquisition authorized by this section.

#### SEC. 5. LAND CONSOLIDATION—TAYLOR FORK AREA.

(a) ACQUISITION OF TAYLOR FORK PROPERTY.—The Secretary is authorized and directed to acquire, by purchase or exchange, lands and interests in lands as depicted on the map entitled "Taylor Fork Area", dated September, 1992, in accordance with the terms and conditions of the Option for the fair market value of such lands and interests, determined at the time of acquisition, in accordance with the appraisal standards specified in the Option.

(b) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, on the status of the pending acquisition authorized by this section.

#### SEC. 6. LAND CONSOLIDATION—GALLATIN ROADED AREA.

(a) ACQUISITION OF GALLATIN ROADED PROPERTY.—The Secretary is authorized and directed to acquire, by purchase or exchange, lands and interests in lands as depicted on the map entitled "Gallatin Area" date September 1992, in accordance with the terms and conditions of the Option not otherwise acquired, purchased, or exchanged under section 3, 4, or 5.

(b) REPORTS TO CONGRESS.—The Secretary shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, on the status of the acquisition authorized by this section.

#### SEC. 7. SERVERED MINERAL EXCHANGE.

(a) FINDINGS.—Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated and its successors and assigns (referred to in this Act as "Burlington");

(2) there are federally owned minerals underlying lands of Burlington lying outside those areas;

(3) Burlington has agreed in principle with the Secretary to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of the areas; and

(4) it is desirable that an exchange of lands be completed not later than 2 years after the date of enactment of this Act.

(b) MINERAL INTERESTS.—

(1) ACQUISITION.—Pursuant to an exchange agreement between the Secretary and Burlington, the Secretary may acquire mineral interests owned by Burlington or an affiliate of Burlington underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988, and "Severed Mineral Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to the area depicted on the maps.

(2) EXCHANGE.—In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and Burlington may agree upon.

(c) EQUAL VALUE.—

(1) IN GENERAL.—The value of the mineral interests exchanged under subsection (b) shall be approximately equal in value based upon available information.

(2) APPRAISAL.—To ensure that the wilderness or other natural values of the area are not affected by the exchange, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, except that the Secretary and Burlington shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) INADEQUATE INFORMATION.—In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and Burlington may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by Burlington.

(2) OTHER INTERESTS.—If there are not sufficient federally owned mineral interests of approximately equal value underlying lands owned by Burlington, the Secretary and the Secretary of the Interior may identify for exchange other federally owned mineral interests in lands in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—

(1) IN GENERAL.—The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in the agreement of a provision authorizing the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) CONVEYANCE.—Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and Burlington and affiliates of Burlington.

(f) MINERAL INTEREST DEFINED.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and other subsurface rights.

SEC. 8. GENERAL PROVISIONS.

(a) MAPS.—The maps referred to in Sections 3, 4, 5, 6 and 7 are subject to such minor corrections as may be agreed upon by the Secretary and the Company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources to the United States House of Representatives of any corrections made pursuant to the subsection. The maps shall be on file and available for public inspection in the Office of Chief, Forest Service, USDA.

(b) TITLE OF LANDS CONVEYED TO THE UNITED STATES.—



(1) **QUALITY OF TITLE AND RIGHTS.**—Subject to paragraph (2), the rights, title, and interests to lands conveyed to the United States under sections 4, 5, and 6 shall, at a minimum, consist of the surface estate and the subsurface rights owned by the Company or Burlington where applicable.

(2) **EXCEPTION.**—The Secretary may accept title subject to outstanding or reserved oil and gas and geothermal rights, except that there shall be no surface occupancy permitted on the lands acquired by the United States under sections 4, 5, and 6 for access to reserved or outstanding rights or exploration or development of such lands.

(3) **ACCESS.**—No portion of lands acquired by the United States under this Act shall be available for access to, or exploration or development of, any reserved or outstanding oil, gas, geothermal, or other non-Federal property interest.

(c) **NATIONAL FOREST LANDS.**—

(1) **IN GENERAL.**—All lands conveyed to the United States under this Act shall be added to and administered as part of the Gallatin National Forest of the National Forest System by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) **HYALITE-PORCUPINE-BUFFALO HORN WILDERNESS STUDY AREA.**—Lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area shall be managed to maintain their presently existing wilderness character and potential for inclusion in the national Wilderness Preservation System in accordance with the Montana Wilderness Study Act of 1977 (16 U.S.C. 1132 note).

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

**PURPOSE OF THE MEASURE**

The primary purpose of H.R. 873, as ordered reported, is to authorize or direct several land exchanges or purchases involving the Forest Service and the Big Sky Lumber Company in the Gallatin and Madison Ranges in Montana to protect and consolidate Federal holdings in the area.

**BACKGROUND AND NEED**

Just north of Yellowstone National Park is the Gallatin Range within the Gallatin National Forest. Although the range was not protected when the park was set aside, and every other section of the area was granted to the railroad in the late 1800's to encourage trans-continental rail construction, the range has essentially remained wild and roadless and is an important part of the Greater Yellowstone Ecosystem. The range is the home of one of the largest elk herds in America along with many other species including the endangered grizzly bear. The range also is the headwaters of some of the most pristine streams and rivers in the nation and has outstanding scenic and recreational resources. Much of the range has been congressionally designated as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area.

The first attempt to consolidate the so-called "checkerboard" ownership of these lands occurred in 1925 and since then there have been many attempts to consolidate the Gallatin Range into public ownership. The Federal Government has already spent more than \$12 million to acquire elk winter range in the area. In 1988, both the House and the Senate acted on a consolidation proposal for the Gallatin within a larger Montana wilderness bill but the bill was vetoed by then President Reagan. In 1992, the House and Senate again passed Montana wilderness bills which included provisions very similar to the language in H.R. 873. However, action

was not completed on the wilderness legislation before the Congress adjourned.

The non-Federal checkerboard lands within the area currently owned by Big Sky Lumber. Recently, Big Sky Lumber and the Forest Service have agreed to enter into an option agreement which gives the United States the option to purchase Big Sky Lumber lands in the Taylor Fork area, Porcupine Creek and the Gallatin Roaded area. The option is contingent on legislation being enacted by October 31, 1993, and contains timetables to complete acquisitions subsequent to the enactment of the legislation. Without legislation such as H.R. 873, it is possible that some 80,000 acres of non-Federal lands in the Gallatin Range will be roaded, logged and developed.

#### LEGISLATIVE HISTORY

H.R. 873 was introduced on February 4, 1993, by Representative Pat Williams. It was ordered reported, as amended, from the full Natural Resources Committee on March 31, and passed the House of Representatives on May 20 by a vote of 317-101. A companion measure, S. 489, was introduced by Senators Baucus and Burns on March 3, 1993. A hearing on S. 489 was held before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources on May 6, 1993.

At the business meeting on July 21, 1993, the Committee on Energy and Natural Resources ordered H.R. 873, as amended, favorably reported.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on July 21, 1993, by a unanimous vote of a quorum present, recommends that the Senate pass H.R. 873, if amended as described herein.

The roll call vote on reporting the measure was 19 yeas, 0 nays, as follows:

##### YEAS

Mr. Johnston  
Mr. Bumpers  
Mr. Ford  
Mr. Bradley\*  
Mr. Bingaman\*  
Mr. Akaka  
Mr. Shelby\*  
Mr. Wellstone\*  
Mr. Mathews  
Mr. Dorgan\*  
Mr. Wallop  
Mr. Hatfield  
Mr. Domenici\*  
Mr. Murkowski  
Mr. Nickles  
Mr. Craig  
Mr. Bennett  
Mr. Specter\*  
Mr. Lott\*

##### NAYS

\* Indicates voted by proxy.

## COMMITTEE AMENDMENTS

During the consideration of H.R. 873, the Committee adopted an amendment in the nature of a substitute. In addition to numerous minor, technical and conforming changes, the substitute makes two major changes. As passed the House, the proposed "Gallatin" exchange would have provided for the conveyance to the United States of certain lands owned by Big Sky Lumber, in exchange for certain federally owned lands and a cash equalization payment of \$3.4 million. This proposed exchange was modified in the Committee reported bill to provide an increase in the number of Federal acres to be exchanged so that the transaction no longer requires a cash equalization payment by the United States.

As passed the House, H.R. 873 referenced an option agreement between the non-Federal land owner and a non-profit organization, the Nature Conservancy, for the acquisition (by purchase or exchange) of certain parcels of land. That option agreement expired on June 1. As ordered reported, H.R. 873 references a new option between the non-Federal landowner and the United States (the Forest Service).

## SECTION-BY-SECTION ANALYSIS

*Section 1* entitles the Act the "Gallatin Range Consolidation and Protection Act of 1993".

*Section 2* sets forth findings.

*Sections 3 (a) and (b)* provide that the Secretary shall acquire by exchange approximately 37,752 acres of Big Sky Lumber (the Company) lands in and adjacent to the Gallatin National Forest and shall convey to the Company, subject to valid existing rights, approximately 16,278 acres of National Forest land as depicted on a specified map. The National Forest land to be transferred shall be subject to the reservation of certain ditches and canals, specified oil and gas leases, and other terms, conditions and reservations as may be agreed upon by the Secretary and the Company.

Subsection (c) provides for the conveyance of certain easements with respect to the lands to be exchanged by each party.

Subsection (d) provides special language regarding certain lands identified on the map as the "North Bridger Range". This language, which relates to the use of these lands for grazing, timber harvesting, and future re-acquisition by exchange, was not included in the House passed bill.

Subsection (e) sets forth procedures and criteria whereby the Secretary is to review and evaluate the title, appraisal and other information related to the non-Federal lands to be conveyed to the United States pursuant to the Gallatin, Porcupine and Taylor Fork exchanges. The Secretary is to notify the Company of what actions it needs to take in the event that the title, appraisal and other information are incomplete or otherwise unacceptable. Except as provided in subsection (f), once the Secretary has determined that this information is in the proper form, he is to complete the Gallatin exchange not later than 60 days after making such a determination.

Subsection (f) states that, notwithstanding subsection (e), the Secretary shall not consummate the Gallatin exchange until he determines that the title to certain lands described in the proposed Porcupine and Taylor Fork exchanges have been placed in escrow as required in the "Option Agreement for the Exchange and/or Purchase of Real Property Pursuant to the Gallatin Range Consolidation and Protection Act of 1993" (the "option"). A copy of the option is included as an Appendix to this report.

Subsection (g) is self-explanatory.

Sections 4, 5 and 6 provide that the Secretary is authorized and directed to acquire by purchase or exchange, certain lands identified on the map as the "Porcupine Area", "Taylor Fork Area" and "Gallatin Area", respectively, in accordance with this Act and the appropriate terms and conditions set forth in the option.

Section 7 provides for an exchange of certain mineral interests owned by the United States and subsidiaries of Burlington Resources, Inc. (Burlington).

Section 7(a)(1) finds that mineral rights owned by Burlington underlie certain federally owned lands in Montana as described in subsection (b).

Subparagraph (a)(2) finds that there are federally-owned minerals underlying lands of Burlington lying elsewhere in the State.

Subparagraph (a)(3) finds that Burlington has agreed in principle with the Secretary to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas.

Subparagraph (a)(4) finds it is desirable that an exchange be completed within two years after the date of enactment of this Act.

Subsection (b)(1) provides that pursuant to an exchange agreement between the Secretary and Burlington, the Secretary may acquire mineral interests owned by Burlington underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to this area.

Subparagraph (b)(2) provides that in exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally-owned mineral interests as the Secretary and Burlington may agree upon.

Subparagraph (c)(1) provides that the value of mineral interests exchanged pursuant to this section shall be approximately equal, based on available information.

Subparagraph (c)(2) provides that to ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and Burlington shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

Subparagraph (c)(3) finds that in the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and Burlington may agree to an exchange on the basis



of mineral interests of similar development potential, geologic character, and similar factors.

Subsection (d)(1) provides that subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which is owned by Burlington.

Subparagraph (d)(2) finds that if there are not sufficient federally-owned mineral interests of approximately equal value underlying the lands identified in paragraph (1), the Secretary and the Secretary of the Interior may identify for exchange any other federally-owned mineral interest in land in the State of Montana where the surface estate is in private ownership.

Subsection (e)(1) provides that the Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision providing for the exchange of federally-owned mineral interests lying outside the boundaries of units of the National Forest System.

Subparagraph (e)(2) provides that notwithstanding any other law, the Secretary of the Interior shall convey the federally-owned mineral interests identified in a mineral exchange agreement between the Secretary of Agriculture and Burlington.

Subsection (f) provides for purposes of this section, the term "mineral interests" includes all locatable and leasing minerals, including oil and gas, geothermal resources, and all other subsurface rights.

*Section 8* contains several general provisions.

Subsection (a) contains standard language concerning maps.

Subsection (b) directs that lands conveyed to the United States in Sections 4, 5 and 6 shall include, at a minimum, the surface estate and subsurface rights owned by the Company or Burlington, as appropriate, except that the Secretary may accept title to outstanding oil and gas and geothermal rights if there is no surface occupancy permitted and no access allowed for the exploration or development of such interests.

Subsection (c) provides for the management of any lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study area.

*Section 9* authorizes the funds necessary to carry out the purposes of this Act.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 23, 1993.

Hon. J. BENNETT JOHNSTON,  
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 489, the Gallatin Range Consolidation and Protection Act of 1993, as ordered reported by the Senate Committee on Energy and Natural Resources on July 22, 1993. We estimate that imple-

menting this legislation would cost between \$9 million and \$16 million over the next five years, assuming appropriation of the necessary amounts.

S. 489 would authorize the Forest Service to exchange or acquire certain land and mineral rights in the state of Montana, subject to specific guidelines established in the bill. In total, the federal government would give up about 16,278 acres of public land in exchange for about 81,000 acres of private land. The bill would authorize the appropriation of such sums as may be necessary to carry out its provisions.

Based on information available from the Forest Service, CBO estimates that land acquisition costs would total \$9 million and would be incurred over a two-year period. Since some of the land to be acquired by the federal government has not yet been appraised, it is possible that acquisition costs could be higher. In addition, if some of the land currently expected to be acquired through exchange must instead be purchased, acquisition costs could increase by as much as \$7 million over the next five years. (The President has requested \$1 million in the 1994 budget to acquire some of the land affected by this bill.) CBO expects that additional management activities could be carried out without an increase in appropriations.

Enactment of S.489 could affect the government's receipt from grazing, timber harvesting, and mining activities because the amount of federal land available for such purposes would change slightly as a result of this bill; therefore, pay-as-you-go procedures would apply to the bill. However, CBO expects that any effect on federal offsetting receipts from such activities would be negligible over the next five years.

Enactment of S. 489 would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 873. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 873, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On March 9, 1993, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture, the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations

on S. 489, the Senate companion measure. These reports had not been received at the time the report on H.R. 873 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Department of Agriculture at the Subcommittee hearing follows:

STATEMENT OF MARK REIMERS, DEPUTY CHIEF, FOREST  
SERVICE, DEPARTMENT OF AGRICULTURE

CONCERNING S. 172, S. 184, S. 250, S. 489, AND S. 577

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to present the views of the Department of Agriculture regarding the five bills being considered today. I will briefly address each bill and then would be happy to answer your questions. In general, we support enactment of all five bills with some suggested amendments.

\* \* \* \* \*

S. 489, GALLATIN RANGE CONSOLIDATION AND PROTECTION  
ACT

The Department of Agriculture supports enactment of S. 489, the "Gallatin Range Consolidation and Protection Act," if amended as we recommend.

This legislation would expedite public acquisition of critical inholdings within the Gallatin National Forest in southwest Montana. These inholdings are owned by Big Sky Lumber Company in four locations within the Gallatin and Madison Mountain Ranges, as shown on the display map. These same land acquisitions were included in the Montana Wilderness bill considered by the 102nd Congress.

The lands to be acquired contain important wildlife habitats and outstanding recreation opportunities. A broad spectrum of national and local conservation and recreation organizations, Federal land management, and State fish and wildlife agencies agree that these lands should be acquired. We understand that Big Sky Lumber is receptive to these proposals, provided authorizing legislation can be enacted by June 1993.

These lands are part of a complex ownership pattern resulting from an earlier Federal land policy that granted lands to the railroads for opening up the West. The practice of granting lands in a "checkerboard" fashion has created some of the land management problems we are dealing with today. The difficulties are particularly acute when management objectives of the owners are different.

Efforts to resolve this issue began in earnest in the 1980's, with then-owner Plum Creek Timber Company. As circumstances and owners have changed over time, an exchange with several components has evolved. A key has been the involvement of interested parties such as The Na-

ture Conservancy and Rocky Mountain Elk Foundation. The bill recognizes this involvement and employs three distinct methods to accomplish its broader purposes.

First, there is a land exchange involving the Forest Service and Big Sky Lumber. Second, there is a transaction involving The Nature Conservancy, whereby it has secured an option on Big Sky Lumber lands in two other areas to facilitate future acquisition by the Forest Service. Third, there is an additional area of intermingled Big Sky Lumber and National Forest System lands which will be examined for possible future acquisition. I will describe each of these components in more detail.

Section 3 of S. 489 would direct the Forest Service to complete the Plum Creek Land Exchange. This two-party exchange was first proposed in 1987, and has been included in most of the Montana wilderness bills considered since that time. A total of 37,752 acres of Big Sky Lumber lands would be acquired in exchange for 12,414 acres of National Forest System lands and a \$3.4 million equalization payment through Land and Water Conservation funding. In the present proposal, completing the Plum Creek Exchange is contingent upon related acquisition of Big Sky Lumber lands in the Porcupine and Taylor Fork areas.

Section 4 of S. 489 specifically authorizes the Forest Service to acquire 8,050 acres of Big Sky Lumber lands in the Porcupine Area of the Gallatin Forest by purchase or exchange, and authorizes Land and Water Conservation funding. A key to this part of the bill is the involvement of The Nature Conservancy as a third party. The Nature Conservancy holds an option agreement to acquire these lands within 2 years.

These lands are located in the upper Gallatin Canyon, just north of Yellowstone National Park. They are the same lands included in a previously-proposed Porcupine Land Exchange between the Forest Service and the previous owners of the lands.

Section 5 of S. 489 authorizes the Forest Service to acquire approximately 11,200 acres of Big Sky Lumber lands in the Taylor Fork Area of the Gallatin Forest by purchase or exchange, and authorizes Land and Water Conservation funding. The Nature Conservancy also is involved in this transaction as previously noted.

The lands are located in the Taylor Fork and Buck Creek drainages in the upper Gallatin Canyon, between Yellowstone National Park and the Lee Metcalf Wilderness. The Forest Service FY 1994 Land and Water Conservation Fund request includes \$1 million to purchase approximately 2,200 acres from Big Sky Lumber Company in Taylor Fork.

Section 6 of S. 489 additionally authorizes and directs the Forest Service to pursue acquisition of other Big Sky Lumber lands in the Gallatin Area, and authorizes Land and Water Conservation funding. The Forest Service



would report to Congress regarding this acquisition effort. These are the remaining 24,000 acres of intermingled Big Sky Lumber lands in the northern Gallatin Range.

I will briefly highlight the key values on the lands which would be acquired and protected through this legislation, and the likely consequences if the public is unable to acquire these inholdings.

About half, or 40,000 acres, of these inholdings are located within the Gallatin Range Wilderness Study Area. Acquisition would consolidate public ownership in the Congressionally-designated wilderness study area and continue to maintain the wilderness character of the Gallatin Range until Congress can address the wilderness question. These lands contain outstanding wildlife, scenic, wilderness and recreation values.

The Porcupine, Taylor Fork, and southern Gallatin Range are all within the Greater Yellowstone Grizzly Bear Recovery Zone. These private inholdings contain resident grizzly bear populations and habitat components necessary for the recovery of this threatened species. In total, nearly 25,000 acres of the lands to be acquired on the Gallatin Forest are considered essential for recovery of the grizzly bear.

The acquisitions would consolidate public ownership in the upper Gallatin, Porcupine and Taylor Fork elk winter range, which is important habitat for over 3,000 elk which migrate from Yellowstone National Park.

The lands to be acquired in the upper Gallatin and Madison Range are the headwaters of the Gallatin and Yellowstone Rivers, two nationally-known wild trout streams. These headwater areas also contain sensitive riparian areas and valuable watersheds.

The land adjustments allow for consolidation of National Forest System lands and also consolidation of lands owned by Big Sky Lumber. In total, the National Forest boundaries would be reduced by about 540 miles, at an estimated total cost savings of \$2.5 million (present value) in corner and property boundary maintenance.

If the proposed acquisitions are not consummated, Big Sky Lumber owners will likely develop their lands to serve a variety of corporate purposes.

There are also some tradeoffs if these transactions occur. The lands that would be exchanged also have resource values such as productive timber lands with significant volumes. Since the lands to be acquired are largely within a wilderness study area, they would not be available for timber management. Overall, this would slightly reduce the available timber harvest from the National Forests.

Valuable wildlife habitat exists on the Federal lands which would be exchanged, such as quality mule deer summer range and habitat for elk, black bear, and moose. The northern slopes of the Bridger Range, including some of the exchange lands, have outstanding scenic qualities.

Nearly half of the Gallatin National Forest lands to be exchanged are within the Bridger Mountain Roadless Area. However, this roadless area is recommended for non-wilderness purposes in the Gallatin Forest Plan. Forest Plan direction for these lands emphasizes timber management, livestock grazing, and other objectives that are more compatible with Big Sky Lumber's ownership objectives.

Over the long term, the lands which would be acquired by Big Sky Lumber may be subject to residential development, particularly in the Bridger Mountains.

Although the Forest Service would acquire all mineral rights under lands in the Plum Creek Land Exchange portion of this bill, the mineral estate is owned separately in the case of the Porcupine and Taylor Fork areas. We believe it is critical to acquire necessary surface and subsurface ownership rights that would fulfill the purposes of this acquisition. We understand the owners of the subsurface rights are willing to convey the locatable mineral rights and to agree that no surface occupancy would occur for any leasable mineral or geothermal energy development. These conditions are the minimum we believe to be acceptable to support the overall purposes of the exchange.

We have provided the Committee with our suggested amendments to the bill.

In the balance, we believe the proposed exchange and acquisition to be in the public interest. The Forest Service would acquire many more acres than would be exchanged out of public ownership and the lands to be acquired have outstanding public values.

This concludes my prepared statement on S. 489.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 873, as ordered reported.

## APPENDIX

### OPTION AGREEMENT

#### FOR THE

#### EXCHANGE AND/OR PURCHASE OF REAL PROPERTY

#### PURSUANT TO THE CALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

THIS AGREEMENT, hereinafter referred to as the "Option Agreement" is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1993, by and between BIG SKY LUMBER COMPANY, an Oregon joint venture consisting of the following joint venturers, to-wit: Blixseth Group, Inc.; C.E. Holliman and Associates, Inc.; Leelynn Inc.; and Wiley Mt., Inc., whose address is 114 SW Second, Portland, Oregon 97204, and Timothy L. Blixseth, individually; Charles E. Holliman, individually; Melvin McDoogal, individually; and Norman McDoogal, individually; hereinafter collectively referred to as "Owner"; and LOUISIANA-PACIFIC CORPORATION, a Delaware corporation, having its principal office at 111 SW Fifth Avenue, Portland, Oregon 97204, acting by and through its duly authorized representative, hereinafter for convenience referred to as "L-P"; and the UNITED STATES OF AMERICA, acting by and through the Secretary of Agriculture, hereinafter "Secretary" on behalf of the Forest Service, USDA.

WHEREAS, it is the desire of the Owner to grant an option for the exchange and/or purchase of certain lands it owns within the external boundaries of the Callatin National Forest to the United States; and

WHEREAS, it is the desire of the United States to acquire said lands by way of exchange and/or purchase pursuant to proposed legislation presently pending before Congress which legislation has been denominated the "Callatin Range Consolidation and Protection Act of 1993" (hereinafter "Act"); and

WHEREAS, Owner has a pre-existing contractual obligation to provide approximately thirty million (30,000,000) board feet of merchantable timber to L-P from the lands it proposes to convey to the United States by way of exchange and/or purchase; and

WHEREAS, the United States is aware of Owner's contractual obligation to L-P and is willing to attempt to locate suitable timber lands from other national forest system lands within western Montana which may be exchanged for Owner's lands in order to effectuate the exchange and/or purchase of Owner's lands; and

WHEREAS, L-P is agreeable to the exchange and/or purchase of lands between Owner and the United States so long as L-P's contract rights to be provided timber from those lands currently owned by Owner, or from lands which Owner hereafter acquires through exchange from the United States, are hereby recognized.

NOW, THEREFORE, in consideration of the above premises and of the terms, covenants and conditions contained herein, the parties mutually agree as follows:

#### Term of Option Agreement

The parties agree that this Option Agreement shall remain in full force and effect until midnight October 31, 1993. Failure of Congress to pass the Act by that date will result in the termination of this Option Agreement.

#### Irrevocable Option-Owner's Lands

Owner does hereby irrevocably grant and give to the United States the exclusive right and option to acquire by exchange and/or purchase certain real property of Owner located in Gallatin and Madison Counties, State of Montana, subject only to the provisions of this Option Agreement and Owner's contractual commitment to provide in part a certain quantity of merchantable timber to L-P, together with security for the performance of such contract.



Owner's lands which are the subject of this Option Agreement are generally known and referred to as the "PORCUPINE", "TAYLOR FORK" and "GALLATIN ROADED" properties. These properties are more particularly described in Exhibit "A" which is attached hereto and by this reference made a part hereof.

The parties agree that any exchange of federal lands and/or timber interests for the Owner's lands described in Exhibit A shall commence with the Owner's Gallatin Roaded lands.

Unless the parties agree otherwise, this Option Agreement will terminate upon failure of the United States to complete the acquisition of Owner's lands within the timeframes specified in this Option Agreement.

#### Option to Acquire Porcupine Lands

Owner does hereby irrevocably grant and give to the United States the exclusive right and option to acquire in whole or in part, by exchange and/or purchase, Owner's Porcupine lands described in Exhibit A. Such right shall become effective immediately upon execution of this Option Agreement by the United States, and shall remain in effect for a period of two (2) years.

In the event the United States purchases less than the whole of the Porcupine lands, any partial purchase shall commence with those aliquot parts lying to the east and thereafter in a westerly direction.

The parties agree that at any time prior to the expiration of this option to acquire the Porcupine lands, the Secretary may, in his sole discretion, utilize any federal, state, or private funds that are made specifically available to purchase Owner's Porcupine lands, in whole or in part. Such funds may include those made available to the Secretary from any qualified 501(c)(3) entity, the State of Montana, or any other entity. The parties further agree that at any time prior to the expiration of this option to acquire the Porcupine lands, the United States reserves the right to relinquish its interest in this Option Agreement. In such event, Owner shall offer for sale at fair market value to a qualified 501(c)(3) entity, at no additional cost to

Owner due to the involvement of a 501(c)(3) entity, any portion of the Porcupine lands that have not been acquired by the United States. It is Owner's intent to condition said offer to such entity upon that entity agreeing to hold any property so acquired for future conveyance to the United States.

Option to Acquire Taylor Fork Lands

Owner does hereby irrevocably grant and give to the United States, the exclusive right and option to acquire in whole or in part, by exchange and/or purchase, Owner's Taylor Fork lands described in Exhibit A, subject only to the provisions of this Option Agreement and Owner's contractual commitment to provide in part a certain quantity of merchantable timber to L-P, together with security for the performance of such contract. Such right shall become effective immediately upon execution of this Option Agreement by the United States, and shall remain in effect for a period of three (3) years.

Provided, however, the parties agree that the Secretary's right to acquire Owner's Taylor Fork lands, in whole or in part, may be exercised only when the exchange of Owner's Gallatin Roaded lands described in Exhibit A for equal-valued federal lands and/or timber interests has been consummated through the conveyance of deeds acceptable to the parties.

In the event the United States purchases less than the whole of the Taylor Fork lands, any partial purchase shall commence with those aliquot parts lying to the south and thereafter in a northerly direction.

Subject to the terms and requirements of this section, the parties agree that at any time prior to the expiration of this option to acquire the Taylor Fork lands, the Secretary may, in his sole discretion, utilize any federal, state, or private funds that are made specifically available to purchase Owner's Taylor Fork lands, in whole or in part. Such funds may include those made available to the Secretary from any qualified 501(c)(3) entity, the State of Montana, or any other entity.

Subject to the terms and requirements of this section, the parties further

agree that at any time prior to the expiration of this option to acquire the Taylor Fork lands, the United States reserves the right to relinquish its interest in this Option Agreement. In such event, Owner shall offer for sale at fair market value to a qualified 501(c)(3) entity, at no additional cost to Owner due to the involvement of a 501(c)(3) entity, any portion of the Taylor Fork lands that have not been acquired by the United States. It is Owner's intent to condition said offer to such entity upon that entity agreeing to hold any property so acquired for future conveyance to the United States.

#### Option to Acquire Gallatin Roaded Lands

Owner does hereby irrevocably grant and give to the United States the exclusive right and option to acquire in whole or in part, by exchange and/or purchase, Owner's Gallatin Roaded lands described in Exhibit A, subject only to the provisions of this Option Agreement and Owner's contractual commitment to provide in part a certain quantity of merchantable timber to L-F, together with security for the performance of such contract.

Such right shall become effective immediately upon execution of this Option Agreement by the United States, and shall remain in effect for a period of three (3) years. Provided, however, the parties agree that such right is subject to the terms and requirements of this Option Agreement.

#### Designation of Exchange Lands

The United States agrees that the Secretary shall have forty five (45) days from enactment of the Act to provide Owner with a list of lands and/or timber interests in logical units, presently in federal ownership and available for exchange to Owner in consideration of the conveyance of the properties described in Exhibit A, in whole or in part, by Owner to the United States. The term timber interests shall mean timber belonging to the United States located on federally-owned lands which may be conveyed to Owner without effecting a conveyance of fee title to the underlying real property.

Owner shall select lands and timber interests in logical units acceptable to Owner and to L-P in exchange for Owner's lands. Within forty-five (45) days of the receipt of the list of available exchange lands from the Secretary, the Secretary and the Owner shall agree upon the specific lands and/or timber interests to be exchanged. The federal lands to be exchanged shall be from those lands and/or timber interests identified as available by the Secretary. Lands and/or timber interests to be designated by the Secretary must be within the National Forest System, in any national forest in the western part of the State of Montana, which have been identified as available for exchange. Initial consideration for exchange shall be given to lands and/or timber interests located within the Gallatin National Forest. In the event sufficient lands and/or timber interests on the Gallatin National Forest have not been identified as available by the Secretary, consideration will then be given to lands and/or timber interests located within one hundred (100) miles of either Belgrade or Deerlodge, Montana. If sufficient land and/or timber interests have not been identified as available by the Secretary following consideration of these two geographic areas, consideration will then be given to other lands and/or timber interests within the western part of the State of Montana.

All lands designated by the Secretary shall be described by section, or portion thereof, township, range and county in which they are located. The description of said lands shall also include, but not be limited to, any other pertinent data, facts or information regarding the lands so identified with regard to access, timber volumes and timber types.

#### Determination of Value

The parties agree that the lands of the Owner and the United States shall be exchanged and/or purchased based upon their fair market values as determined at the time of conveyance in accordance with federal appraisal standards. Owner's lands shall be appraised by an independent fee appraiser acceptable to both the Owner and the Secretary. The lands and/or timber interests of the



United States shall be appraised by an appraiser acceptable to both the Secretary and the Owner.

The appraisals shall be prepared in conformance with the "Uniform Appraisal Standards for Federal Land Acquisitions". Those standards are supplemented by Standards 1, 2 and 3 of the "Uniform Standards of Professional Appraisal Practice" as published by The Appraisal Foundation. Should any part of the latter supplementary standards conflict with the former standards, the former standards shall govern. Owner's appraiser must be qualified pursuant to Title XI of the Financial Institution's Reform Recovery and Enforcement Act of 1989 (FIRREA).

Notwithstanding the above, the United States agrees that Owner and L-P shall be entitled to verify estimated timber volumes on lands and/or timber interests of the United States identified as available for exchange. Likewise, Owner agrees that the Secretary and his representatives shall be entitled to verify estimated timber volumes on lands of the Owner identified as available for exchange and/or purchase.

Condition of Title, Title Evidence and Commitment

Owner and Secretary agree that title to the Owner's properties described herein shall be inclusive of the entire surface and subsurface estates, without reservation or exception, except as expressly agreed upon by the Secretary and as provided for in the Act. Owner agrees to reacquire any outstanding interests in minerals, timber or water, or any other outstanding interests in the properties, except for any reservations by the United States or the State of Montana.

Provided that Owner's contractual obligation to L-P is preserved, Owner agrees that it will, at its sole cost and expense, undertake with due diligence to enter into binding contractual agreements to enable it to purchase or acquire any outstanding interests in the properties which it presently does not own in its entirety. Owner shall provide the Secretary with proof of full and

acceptable title within ninety (90) days from the enactment into law of the Act. The Secretary shall review Owner's title information and make a determination whether the provisions of the Act and the applicable title standards for federal land acquisitions have been satisfied.

Owner further agrees to furnish the Secretary, at Owner's sole expense, a preliminary title commitment, final title insurance policy and any other pertinent title information which meet applicable federal land acquisition title standards and guidelines and are acceptable to the Secretary.

#### Taxes and Assessments

Owner agrees to pay all taxes and assessments levied and assessed against the properties described in Exhibit A prior to or at the time of conveyance to the United States. It is understood that once title to the properties is vested in the United States no further tax liability will accrue against said properties. However, in the event any real or personal property taxes are legally due on the properties described in Exhibit A for the remainder of the calendar year in which title has been transferred to the United States, Owner agrees to pay said taxes to the appropriate county or counties. Owner further agrees to indemnify, defend and hold the United States harmless from any and all liabilities, claims, demands and expenses arising from the lien of general and/or special real or personal property taxes and assessments.

#### Timber Deed from Owner to L-P

For the purpose of this Option Agreement, Owner and the United States recognize that L-P presently has a contractual agreement with Owner to receive approximately thirty million (30,000,000) board feet of merchantable timber from the lands described in Exhibit A of comparable quality in grade and species to the timber that has been delivered to L-P's Belgrade sawmill pursuant to its agreement with Owner. Upon the acquisition of federal lands and/or timber interests pursuant to this Option Agreement, Owner shall provide L-P with timber deeds and evidence of title to said timber in form satisfactory

to L-P to receive timber of comparable quantity, quality, grade and species from said federal lands and/or timber interests, which shall not impair L-P's security with regard to the contractual agreement between Owner and L-P.

Preservation of the Property

Owner agrees to manage, preserve and protect the aesthetic, ecological and natural features of the properties described in Exhibit A in order that they may be conveyed and transferred to the United States in the same condition that they are in at the time of the execution of this Option Agreement. Provided, however, Owner may continue to manage the Taylor Fork and Gallatin Roaded lands for timber production, but no logging or road development shall occur on the Porcupine lands following execution of this Option Agreement.

Notwithstanding Owner's right to harvest timber on the Taylor Fork and Gallatin Roaded lands prior to conveyance of said lands to the United States, Owner shall be responsible for ensuring that said lands are not environmentally degraded. Owner agrees to follow the Montana Forestry Best Management Practices, the Streamside Management Act and all other pertinent laws of the State of Montana in its timber harvesting program. Owner further agrees to consult with Gallatin National Forest officials regarding its proposed timber harvest plans, road development plans and silvicultural prescriptions within the Taylor Fork and Gallatin Roaded lands. The allowable timber harvest from the Taylor Fork lands shall be two million (2,000,000) board feet.

Expressed Covenant of Owner

Owner agrees that during the term of this Option Agreement it shall not change, disturb or modify the properties described in Exhibit A in any manner or fashion, except insofar as changes, disturbances or modifications may result from timber harvesting activities on the Taylor Fork and Gallatin Roaded lands. Owner may, however, after conferring with Gallatin National Forest officials, take safety and/or fire prevention protective measures which may result in changes, disturbances or modifications to said lands.

Right of Entry

Owner hereby grants to the United States and its officials the right to enter upon the properties described in Exhibit A at reasonable times and for such purposes as are consistent with the purpose and intent of this Option Agreement.

Owner and L-P's Commitment

Owner and L-P hereby irrevocably and unconditionally, subject only to enactment of the Act, commit to the United States that they will execute this Option Agreement and meet all of their respective obligations as set forth herein. Owner and L-P further agree to place with the Escrow Agent hereinafter named good and sufficient, duly executed and notarized documents of conveyance, including warranty deeds, timber deeds, mineral deeds, and all other outstanding interests in the properties described in Exhibit A to ensure the transfer of said properties to the United States, subject to the terms of this Option Agreement, within 90 days of enactment of this Act.

If this Option Agreement terminates, said documents of conveyance shall be returned by the Escrow Agent to the appropriate parties.

Escrow Agent

The parties hereby agree that Security Title Company of Bozeman, Montana, is designated and shall serve as escrow agent, closing agent and issuer of any and all title insurance commitments and final title policies to be issued pursuant to the terms and conditions of this Option Agreement.



Notice

The parties agree that any notice required to be given hereunder shall be completed when sent by facsimile device or when deposited in the United States Mail, certified, return receipt requested. The parties authorized to receive notice hereunder are listed below. Notice to the Owner's legal counsel shall be deemed to be notice to the Owner.

OWNER:

Tim Blixseth  
114 SW Second Avenue  
Portland, OR 97204  
Phone: (503) 223-9088  
Fax: (503) 223-9086

Melvin McDougal  
225 East Mandenhall  
Bozeman, MT 59715  
Phone: (406) 587-7004  
Fax: (406) 587-7005

Joseph W. Sabol  
Attorney and Counselor at Law  
225 East Mandenhall  
Bozeman, MT 59715  
Phone: (406) 587-9338  
Fax: (406) 587-9752

SECRETARY:

David P. Garber  
Forest Supervisor  
USDA Forest Service  
Gallatin National Forest  
P.O. Box 130  
Bozeman, MT 59715  
Phone: (406) 587-6701  
Fax: (406) 587-6804

L-P:

Anthony C. Colter  
Senior Resource Manager  
Louisiana-Pacific  
P.O. Box 389  
Deer Lodge, MT 59722  
Phone: (406) 846-1600  
Fax: (406) 846-3714

James. F. Ellisor  
Controller  
Louisiana-Pacific  
P.O. Box 4000-98  
Hayden Lake, Idaho, 83835  
Phone: (208) 772-6011  
FAX: (208) 772-2938

Survivability

The parties agree that all of the terms, covenants and conditions contained herein shall survive the closing and consummation of any partial conveyance of Owner's lands described in Exhibit A until such time as all of Owner's lands described herein are conveyed to the United States, or until such time as the United States' interest in this Option Agreement is relinquished by the Secretary and offered by Owner to a qualifying 501(c)(3) entity.

Amendments

The parties agree that this Option Agreement may be amended at any time during the term hereof. Any such amendment(s) must be in writing and signed by all the parties hereto. Any such amendment shall not become effective until 45 days after receipt of such amendment by the Energy Committee of the United States Senate and by the Interior Committee of the United States House of Representatives.

Counterparts

The parties agree that this Option Agreement may be executed in one or more counterparts, each of which shall be deemed an original document, but all of which together shall constitute one and the same document provided that each such counterpart must be signed by all of the parties hereto.

Abstract of Option Agreement

The parties agree that an abstract of this Option Agreement shall be executed by them in a form suitable for recording simultaneously with the execution of this Option Agreement.

Binding Effect

The parties agree that all of the terms, covenants, and conditions contained herein shall be binding upon them as well as upon their heirs, successors and assigns.

Effective Date

The parties understand and agree that Congress must specifically authorize the Secretary to execute this Option Agreement. Nevertheless, Owner and L-P agree to execute this Option Agreement as soon as it has been approved as to form and content by the Forest Service and the Office of General Counsel, USDA. Once Owner and L-P have executed this Option Agreement it will be forwarded to the Regional Forester in Missoula, Montana who shall execute it within ten (10) days of enactment of the Act.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

## BIG SKY LUMBER CO.

An Oregon Joint Venture

By: The Blixseth Group, Inc.

Its Joint Venturer

By: Tim L. Blixseth Pres

Tim L. Blixseth, President

Date: 6-29-93Tim L. Blixseth

Tim L. Blixseth

Individually

By: C.E. Holliman &amp; Associates, Inc.

Its Joint Venturer

By: Charles E. Holliman

Charles E. Holliman, President

Date: 6-29-93Charles E. Holliman

Charles E. Holliman

Individually

By: Leelynn, Inc.

Its Joint Venturer

By: Melvin McDougal

Melvin McDougal, President

Date: 6/29/93Melvin McDougal

Melvin McDougal

Individually

By: Wiley Mt., Inc.

Its Joint Venturer

By: Norman McDougal

Norman McDougal, President

Date: 6/29/93Norman McDougal

Norman McDougal

Individually

## LOUISIANA-PACIFIC CORPORATION

By: James F. Ellis

James F. Ellis

Controller

Date: 6/29/93

## UNITED STATES OF AMERICA

USDA FOREST SERVICE

By: David Jolly

David Jolly

Regional Forester

Date: \_\_\_\_\_

Acceptance of Escrow by Escrow Agent

I, the undersigned, a duly authorized representative of Security Title Company of Bozeman, Montana, the Escrow Agent named herein, do hereby acknowledge and affirm that I have read this Option Agreement and that Security Title Company stands ready, willing and able to perform the duties and obligations imposed upon it contained herein.

SECURITY TITLE COMPANY

By: Theresa SmithDate: 7/1/93



**EXHIBIT A**  
**PORCUPINE AREA**

Principal Meridian Montana

**GALLATIN NF**

<u>T. 7 S., R. 4 E.</u>	
sec. 3, SW1/4	160.00
sec. 9, E1/2	320.00
sec. 13, SW1/4	160.00
sec. 15, all	640.00
sec. 23, all	640.00
sec. 25, all, fractional	624.08
 <u>T. 7 S., R. 5 E.</u>	
sec. 19, all, fractional, except NE1/4	728.24
sec. 29, all	640.00
sec. 31, all, fractional	887.52
sec. 33, all	640.00
 <u>T. 8 S., R. 5 E.</u>	
sec. 5, all, fractional	741.72
 <u>T. 3 S., R. 5 E.</u>	
sec. 35, all	640.00
 <u>T. 4 S., R. 5 E.</u>	
sec. 1, all, fractional	656.92
 <u>T. 4 S., R. 6 E.</u>	
sec. 7, lots 1-4, E1/2SW1/2	260.20
 <u>T. 8 S., R. 3 E.</u>	
sec. 31, lots 3, 4, E1/2SW1/4, SE1/4	311.99
Subtotal Gallatin NF	8,050.67
 <b>LOLO NF</b>	
 <u>T. 12 N., R. 24 W.</u>	
sec. 19, E1/2NE1/4	80.00
Subtotal Lolo NF	80.00
<b>TOTAL NON-FEDERAL ACRES</b>	<b>8,130.67</b>
<b>PORCUPINE AREA</b>	

## EXHIBIT A

## TAYLOR FORK AREA

Principal Meridian Montana

## GALLATIN NF

<u>T. 8 S., R. 3 E.</u>	
sec. 1, all, fractional	640.60
sec. 3, all, fractional	639.80
sec. 9, all	640.00
sec. 11, all	640.00
sec. 13, all	640.00
sec. 15, all	640.00
sec. 21, E1/2	320.00
sec. 23, all	640.00
sec. 27, all	640.00
sec. 31 **	
sec. 33, all	640.00
sec. 35, all	640.00
Subtotal	6720.40

\*\*NOTE: T. 8 S., R. 3 E., sec. 31 (lots 3, 4, E1/2SW1/4, SE1/4 - 311.99 acres) is part of the Porcupine Area.

<u>T. 9 S., R. 3 E.</u>	
sec. 3, all, fractional	642.60
sec. 5, all, fractional	639.00
sec. 9, all	640.00
sec. 21, all	640.00
sec. 27, all	640.00
sec. 31, all, fractional	634.68
sec. 33, all	640.00
Subtotal	4476.28

TOTAL NON-FEDERAL ACRES	11,196.68
TAYLOR FORK AREA	

EXHIBIT AGALLATIN ROADED

## Principal Meridian Montana

GALLATIN NFT. 3 S., R. 5 E.

sec. 33, all

640.00

Subtotal

640.00

T. 3 S., R. 7 E.

sec. 27, Lots 1-4, W1/2E1/2,

438.28

N1/2NW1/4

sec. 33, Lots 1-4, NE1/4,

498.68

N1/2S1/2

Subtotal

936.96

T. 4 S., R. 4 E.

sec. 11, all

640.00

sec. 13, all

640.00

sec. 15, all

640.00

sec. 21, all, fractional

638.40

sec. 23, all

640.00

sec. 25, NW1/4NE1/4, NW1/4

200.00

sec. 27, all

640.00

Subtotal

4038.40

T. 4 S., R. 5 E.

sec. 3, all, fractional

651.08

sec. 5, all, fractional

645.96

sec. 7, all, fractional

697.48

sec. 9, all

640.00

sec. 15, all

640.00

sec. 17, all

640.00

sec. 19, all, fractional

700.40

sec. 21, all

640.00

sec. 23, all

640.00

sec. 27, all

640.00

sec. 29, N1/2, SE1/4

480.00

sec. 33 all

640.00

Subtotal

7654.92

T. 4 S., R. 6 E.

sec. 7, E1/2\*\*

320.00

Subtotal

320.00

\*\*NOTE: T. 4 S., R. 6 E., Section 7 (Lots 1-4, E1/2W1/2, SE1/4 - 260.20 acres)  
is part of the Porcupine Area.

## CALLATIN ROADED, CONT.

T. 5 S., R. 5 E.

sec. 3, all, fractional	647.80
sec. 9, E1/2, SW1/4	560 (approx.)
NW1/4 minus C.O.S.	
sec. 11, all	640.00
sec. 13, all	640.00
sec. 15, all	640.00
sec. 17, all	640.00
sec. 21, all	640.00
sec. 23, all	640.00
sec. 25, all	640.00
sec. 27, all	640.00
sec. 31, all fractional	683.12
sec. 33, all	640.00
sec. 35, all	640.00
Subtotal	8250.92

T. 5 S., R. 6 E.

sec. 7, all, fractional	629.68
sec. 19, all, fractional	630.72
Subtotal	1260.40

TOTAL NON-FEDERAL ACRES	23,141.60
CALLATIN ROADED AREA	

